



# UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE  
United States Patent and Trademark Office  
Address: COMMISSIONER OF PATENTS AND TRADEMARKS  
Washington, D.C. 20231  
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/675,352	09/29/2000	Tony A. Craft	SP00-295	1123

22928 7590 11/06/2002

CORNING INCORPORATED  
SP-TI-3-1  
CORNING, NY 14831

EXAMINER
----------

HOFFMANN, JOHN M

ART UNIT	PAPER NUMBER
----------	--------------

1731

10

DATE MAILED: 11/06/2002

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	Application No.		Applicant(s)	
	09/675,352		CRAFT ET AL.	
	Examiner		Art Unit	
	John Hoffmann		1731	

mk-10

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 15 October 2002.
- 2a) ☒ This action is **FINAL**.                      2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 10, 12-17 and 19-22 is/are pending in the application.
- 4a) Of the above claim(s) 15 and 16 is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 10, 12, 17 and 19-22 is/are rejected.
- 7) ☒ Claim(s) 13-16 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on \_\_\_\_\_ is: a) ☐ approved b) ☐ disapproved by the Examiner.  
If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

**Priority under 35 U.S.C. §§ 119 and 120**

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
a) ☐ All b) ☐ Some \* c) ☐ None of:  
1. ☐ Certified copies of the priority documents have been received.  
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.  
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).  
\* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).  
a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

**Attachment(s)**

- |  |   |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)                             | 4) <input type="checkbox"/> Interview Summary (PTO-413) Paper No(s). _____  |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)         | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____ | 6) <input type="checkbox"/> Other:  |

## **DETAILED ACTION**

### ***Claim Objections***

Claims 15-16 are objected to under 37 CFR 1.75(c), as being of improper dependent form for failing to further limit the subject matter of a previous claim. Applicant is required to cancel the claim(s), or amend the claim(s) to place the claim(s) in proper dependent form, or rewrite the claim(s) in independent form.

Claims 15-16 are drawn to a "system". These claims depend from claim 10. Claim 10 is drawn to a method - not a system. Since claims 15-16 do not further limit a method, they fail to further limit the subject matter of a previous claim. Claims 15-16 are withdrawn from further consideration.

### ***Response to Amendment***

The amendment filed 15 October 2002 is objected to under 35 U.S.C. 132 because it introduces new matter into the disclosure. 35 U.S.C. 132 states that no amendment shall introduce new matter into the disclosure of the invention. The added material which is not supported by the original disclosure is as follows: the susceptor.

Applicant is required to cancel the new matter in the reply to this Office Action.

### ***Claim Rejections - 35 USC § 112***

The following is a quotation of the first paragraph of 35 U.S.C. 112:

Art Unit: 1731

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

Claims 17,19 are rejected under 35 U.S.C. 112, first paragraph, as containing subject matter which was not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventor(s), at the time the application was filed, had possession of the claimed invention.

Claim 17 now requires that the step of forming a pre-optimized draw tip "on the preform having a tip taper with a ratio...of between about 5 to about 12". There is no support for this. There is only support for having that ratio after the pre-optimized tip is made

Claim 12, there is no support for a coil which surrounds the preform - if this was the case, then the entire preform would melt - not just the end. As seen from figure 4, only an end portion is surrounded by the coil.

### ***Claim Rejections - 35 USC § 103***

Claims 10, 12, and 21-22 are rejected under 35 U.S.C. 103(a) as being unpatentable over Humbert 5970750.

Humbert does not disclose using a chamber. It is well known that human beings have been known to accidentally trip or drop things. It would have been obvious to have a chamber/box around the Humbert apparatus so as to protect the preform dust,

Art Unit: 1731

or from something from being dropped on it - and to protect any human that might accidentally trip and fall onto the white-hot glass and scar his face for life.

Furthermore, "chamber" is a broad term. It would have been obvious to use the Humbert apparatus in a building or a room (each is a chamber) so as to protect the device from rain, snow and dust - and so as to make things comfortable for the artisan using the Humbert device.

As to the substantially identical temperature profiles - as indicated in the previous rejection of claim 11, there is no definition or discussion as to what a "profile" is. Thus such can be a small profile where there is one section where there is a temperature of 500 C, and next to it is a portion where the temperature is 501 C which is next to a section which is 502 C, etc. The furnaces would have such sections because the furnaces will have portions which are near room temperature and other portions that are over 1000 C. So, it is necessary that between those points, there will be portions that are 500, 501, 502, 503, 504, 505.

Claim 12: IN as much as Applicants preform is not completely surrounded by the coil, the prior art coil need not completely surround the preform. Applicant's coil surrounds only one end: Humbert surrounds one side.

See the previous Office action for the manner in which the rest of claim limitations (including the dependent claims) are obvious in view of Humbert.

Claim 20 is rejected under 35 U.S.C. 103(a) as being unpatentable over Humbert 5970750 in view of Blankenship 5059229 or Lysson 5897681.

See previous Office action

***Allowable Subject Matter***

Claims 13-14 would be allowable if rewritten to overcome the rejection(s) under 35 U.S.C. 112, second paragraph, set forth in this Office action and to include all of the limitations of the base claim and any intervening claims.

***Response to Arguments***

Applicant's arguments filed 15 October 2002 have been fully considered but they are not persuasive.

It is argued that "induction heater" includes a susceptor. No evidence is supplied to support this conclusion. Since Humbert discloses an induction heater with no susceptor, it appears the argument is not correct.

It is further argued that Humbert is directed to a completely different problem. This is irrelevant because the present claims are very broad and do not preclude the solution of a different problem.

It is further argued that Humbert doesn't teach pre-optimizing the tip. The definition that Applicant uses for "pre-optimize" is very broad and reads on Humbert's tip. (See rejection).

It is still further argued that Humbert does not teach that "the" temperature profile of the first furnace be substantially equal to "that" of the draw furnace. This is

Art Unit: 1731

inaccurate; the claim refers to "a" profile of each furnace. There in any along any line, in any 2-dimensional place/surface, and in any three dimensional space, there is an infinite number of such profiles. It is improper for Examiner to read the claims as referring to "the" profile - because a potential infringer could avoid such by merely using a draw furnace which is 20 % longer, or shorter, or narrower or wider - and this would no longer be "substantially identical" - because "the" profiles of each would be of very different sizes.

It is further argued that the humbert device is not a furnace. This is a conclusion with no rationale or evidence to support it. Since it heats a device in a very similar fashion to how Applicant does it, it is proper to consider it a furnace.

Various arguments are made as to why the Humbert tip is not pre-optimized. These are not convincing because they do not address what error the Office made in determining that the tip was pre-optimized. Applicant was being their own lexicographer; examiner used the definition supplied, and now Applicant seems to be saying that the term "pre-optimized" requires other things which were not included in the definition. Applicant seems to be arguing along the lines that the entire tip must have the taper - rather than one portion of the tip. However, such an interpretation could be easily avoided by a potential infringer - so examiner will not interpret the claims so narrowly. If Applicant wishes the claims be so limited, they will have to be amended to reflect such. MOST IMPORTANTLY - the arguments fail to state why the Humbert tip fails to meet the definition set by Applicants. All other discussion pertaining to the Applicant's

Art Unit: 1731

disclosure of "pre-optimized" is deemed to be directed to preferred embodiments - not what is actually claimed.

### ***Conclusion***

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the date of this final action.



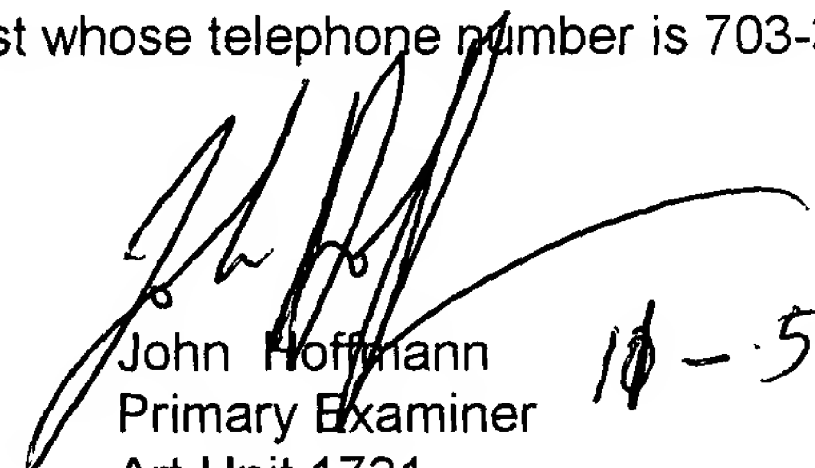
Art Unit: 1731

**Conclusion**

Any inquiry concerning this communication or earlier communications from the examiner should be directed to John Hoffmann whose telephone number is 703-308-0469. The examiner can normally be reached on Monday through Friday, 7:00- 3:30.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Steve Griffin can be reached on 703-308-1164. The fax phone numbers for the organization where this application or proceeding is assigned are 703-305-7115 for regular communications and 703-305-3599 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-308-0651.

  
John Hoffmann  
Primary Examiner  
Art Unit 1731  
10-5-02

Jmh

November 5, 2002